

**PERRY BURKETT, ESQ. (PB4936)**

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Attorney for Creditor,  
Metropolitan Lumber, Hardware & Building Supplies, Inc.  
(referred to in Schedule 8.1 annexed to the moving papers of  
the attorneys for the Debtors as "Metropolitan Lumber")

U.S. BANKRUPTCY COURT  
FILED  
CAMDEN, NJ  
08 JUN 30 AM 9:23  
JAMES J. WALDRON  
BY: \_\_\_\_\_  
DEPUTY CLERK

_____	:	UNITED STATES BANKRUPTCY COURT
In re:	:	FOR THE DISTRICT OF NEW JERSEY
	:	CHAPTER 11
SHAPES/ARCH HOLDINGS L.L.C.,	:	
et al.,	:	CASE NO. 08-14631 (GMB)
Debtors.	:	
_____	:	

**NOTICE OF OBJECTION TO FILING OF SCHEDULE 8.1**  
**TO DEBTORS' THIRD AMENDED PLAN**

STATE OF NEW YORK            )  
  )ss.:  
COUNTY OF NEW YORK        )

Perry Burkett, Esq., an attorney duly admitted to practice before the Courts of the State of New York, affirms pursuant to all the penalties of perjury, as follows:


1. That I am General Counsel for Metropolitan Lumber, Hardware & Building Supplies, Inc. (hereinafter "MET") referred to in the Schedule 8.1 annexed to the moving papers of Debtor's counsel as "Metropolitan Lumber".
2. That I submit this affirmation as an objection to the entry contained on the proposed Schedule 8.1 to Debtor's Third Amended Plan with respect to the entry which appears on

page 6 of Schedule 8.1 entitled "Executory Contracts to be Assumed - Shapes/Arch Holdings, LLC".

3. That on page 6 of the aforesaid Schedule 8.1 submitted by Debtor's counsel, there is listed a purported agreement between ULTRA LLC and MET which the Debtor herein is requesting to be assumed entitled "Confirmation of Annual Rebate Agreement" and further listing a cure amount of \$337.88.
4. That MET objects to the purported or attempted assumption of what is termed "an Annual Rebate Agreement" with ULTRA LLC on the basis of the fact that based on the records of MET, such an annual rebate agreement does not exist. Furthermore, MET has no practice of entering into "rebate agreements", either orally or in writing.
5. MET possesses no copy of any such "Annual Rebate Agreement" and defies the attorneys for the Debtor herein to produce a written copy of any such purported "Annual Rebate Agreement".
6. Furthermore, there is no record on the books of MET as to the issuance of any credit memorandum or any other amount due from MET to ULTRA LLC.
7. To conclude, to the best knowledge and awareness of MET, there exists no "Annual Rebate Agreement" which MET ever entered into with ULTRA LLC nor is there any amount presently owing from MET to ULTRA LLC.
8. Thus, unless the Debtor can present to the Court some written evidence that there is currently due and owing an amount from MET to ULTRA LLC, this creditor is forced to assume that the claimed "Annual Rebate Agreement" is unsubstantiated and, in fact, does not exist.

9. Thus, on the basis of the above, it is requested that the Court deny that portion of the Schedule 8.1 which the Debtor herein seeks to file under which said Debtor seeks to assume a claimed existing "Annual Rebate Agreement" with Creditor MET.

Dated: New York, New York  
June 26, 2008

  
PERRY BURKETT  
Attorney for  
Metropolitan Lumber, Hardware  
& Building Supplies, Inc.  
(Referred to in Purported  
Schedule 8.1 by Debtor as  
"Metropolitan Lumber"  
617 Eleventh Avenue  
New York, New York 10036  
(212) 582-1951

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK    )

I, the undersigned, being sworn, say: I am not a party to the action, am over 18 years of age and reside at 357 West 55th Street, New York, New York 10019.

On June 26, 2008, I served the within NOTICE OF OBJECTION TO FILING OF SCHEDULE 8.1 TO DEBTOR'S THIRD AMENDED PLAN by mailing a copy to the following person to the last known address set forth after the name below:

TO: COZEN O'CONNOR, ESQS.  
Liberty View, Suite 300  
457 Haddonfield Road  
Cherry Hill, New Jersey 08002  
Att: Mark E. Felger, Esq.

*Diane Howard*  
Diane Howard

Sworn to before me this  
26th day of June 2008

*Perry C. Burkett*  
Notary Public

